HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

W.P.NO.2186 OF 1991

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Between:

The Society for Prevention of Cruelty to Animals,

Hyderabad represented by its Honourary Secretary.

..... Petitioner

AND

The Commissioner of Police, Hyderabad City

Hyderabad and 4 others.

.....Respondents

::JUDGMENT::

Counsel for the Petitioner : Sri V.Hari Haran
Counsel for Respondent Nos.1&2: Government Pleader for Home
Counsel for Respondent No. 3 : Sri Islamuddin Ansari on behalf of Sri Rama Rao Ghanta
Counsel for Respondent No. 4 : Government Pleader for Endowments

Dated 14/6/2006

This petition is directed against order dated 19.12.1990 passed by the State Government, whereby the revision petition filed by the petitioner against the order of Regional Joint Commissioner, Endowments who confirmed order dated 17.02.1988 passed by Assistant Commissioner, Endowments Department, Twin Cities, Hyderabad was dismissed.

Although the petitioner has questioned the legality and correctness of the impugned order on several grounds, I do not consider it necessary to go into the factual matrix of the case and decide the contentious issue whether the petitioner could be treated as an 'Endowment' for the purposes of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') because after hearing learned counsel for the parties, I am convinced that the order passed by the State Government is liable to be nullified on the short ground that it does not satisfy the test of a speaking order.

By now, it must be treated as settled that every quasi judicial authority and even administrative authority entrusted with the task of deciding the lis between the parties or pass an order affecting the rights of others must not only record reasons in support of its conclusions but also communicate such reasons to the affected persons. In this connection, we may usefully refer to the judgments of the Supreme Court in **M/s Harinagar Sugar Mills v. Shyam Sunder; M.P. Industries Limited v. Union of India; Bhagat Raja v. Union of India; Mahabir Prasad Santosh Kumar v. State of U.P.; Travancore Rayons Ltd. v. Union of India; State of Punjab v. Bakhtawar Singh; Ajanta Industries v. Union of India; M/s Siemens Engg. Manufacturing Co. v. Union of India**

and S.N. Mukherjee v. Union of India.

The consistent view expressed by the Supreme Court in the aforementioned judgments is that even where the statutory provisions do not ordain the quasi judicial or administrative authority to record reasons, the duty to record reasons and communicate the same to the affected person must be read as implicit in the exercise of power to decide the lis between the parties or to pass orders affecting some or other persons.

The facts of the case show that application filed by the petitioner against appointment of Board of Trustees was rejected by Assistant Commissioner, Endowments Department, Twin Cities, Hyderabad vide his order dated 17.02.1998. Revision petition No.27 of 1988 filed by the petitioner was dismissed by Regional Joint Commissioner, Endowments Department, Hyderabad vide his order dated 30.11.1988. The petitioner challenged that order by filing a petition before the State Government. After some time, he filed Writ petition No.15496 of 1989 with the complaint that the petitions pending before the State Government have not been decided and the private respondent is usurping its property. The learned Single Judge disposed of the writ petition on 19.02.1990 by directing the State Government to decide the revision petition within a maximum period of four weeks. The relevant extract of that order reads as under:

> "It is unnecessary to go into the several contentions advanced by Sri P.S. Narayana, the learned counsel for the petitioner for the obvious reason that the main revision petition is pending before the Government. The real grievance of the petitioner appears to be that the interim order passed by the Government has not been given effect to. There is some ambiguity in the order passed by the State Government. It appears by the date of (23.08.1989) interim stay the management of the Veterinary Hospital was already taken over by the Board of Trustees. In the circumstances, I am of the view that it is not proper to continue the existing stalemate. The writ petition is, therefore, disposed of with the following direction. The first respondent shall dispose of the revision petition filed by the petitioner-Society as expeditiously as possible in any event not less than four weeks from the date of receipt of a coy of this order."

Thereafter, the State Government passed the impugned order, the relevant portion of which is reproduced below:

> "The Government have considered the R.P. filed by Sri S.R.Kimtee, Hon'bel Secretary, Society for Prevention of Cruelty to Animals, Hyderabad and the grounds urged therein, as well as during the personal hearing by the Minister(Endowments & L.A.) on 19.09.1990 and in the light of the report of Commissioner, Endowments Department, Hyderabad and they found no reason to interfere with the orders of the Regional Joint Commissioner, Endowments Department, Hyderabad in R.P.NO.27/1988 dated 30.11.1988 filed before him."

In my considered opinion, the order passed by the State Government does not fulfill the requirement of a speaking order. Admittedly, the State Government was discharging quasi-judicial function. Therefore, it was under an obligation to objectively consider the points raised by the petitioner in the revision petition and decide the same by recording reasons. What the State Government has done is to use some stock phrases and dismissed the revision petition without assigning any reason. A careful reading of the memo of revision, which has been filed with the writ petition shows that the petitioner had raised several points to challenge order dated 30.11.1988 passed by the Regional Joint Commissioner, Endowments Department but without considering any of those points, the State Government dismissed the revision petition by a rather cryptic order. In my view, the State Government's failure to record reasons and communicate the same to the parties has the effect of vitiating the order under challenge.

In the result, the writ petition is allowed. Order dated 19.12.1990 passed by the State Government is quashed with the direction that fresh orders be passed in the revision petition filed by the petitioner. The State Government shall hear the representative of the petitioner, the department and Board of Trustees of Veterinary Hospital, Muslim Jung Bridge, Hyderabad and then pass a reasoned order.

Since the matter has remained pending before one or the other authorities and this Court for last more than 20 years, I direct the State Government to dispose of the revision petition within a period of three months from the date of communication of this order. Needless to say that the authority concerned must objectively consider the points raised by the petitioner, examine the record of the case and then decide the same by recording reasons, which will have to be communicated to both the parties.

G.S.SINGHVI, CJ

msv/grr/ksld